FILED
MAY 0 5 2014
CITY CLERK

RESOLUTION NO. 11, 2014

A RESOLUTION TO RESCIND THE TEN (10)-YEAR REAL PROPERTY TAX ABATEMENT FOR DMS REAL ESTATE, LLC.

WHEREAS, by Resolution No. 45, 2003, the Common Council for the City of Terre Haute, Indiana, confirmed on September 11, 2003, a ten (10) year real property tax abatement for DMS Real Estate, LLC (hereinafter "Petitioner"). Resolution No. 45, 2003, is attached hereto as Exhibit A; and

WHEREAS, by written notice dated January 21, 2014, Petitioner was provided with a courtesy notification that the Common Council Finance Committee would be reviewing the compliance of previously granted tax abatements and advised Petitioner to review the status of its tax abatement and to ensure submission of appropriate compliance forms. A copy of said notice is attached hereto as Exhibit B; and

WHEREAS, at the April Regular Meeting of the Common Council held on April 15, 2014, it was determined that Petitioner was not in substantial compliance with the Statement of Benefits for failure to submit to the Common Council a Form CF-1/RP (Compliance with Statement of Benefits – Real Property); and

WHEREAS, pursuant to I.C. § 6-1.1-12.1-5.9, by written notice dated April 17, 2014, Terre Haute City Clerk notified Petitioner that a determination had been made that Petitioner was not in substantial compliance with the Statement of Benefits. Such notice stated the reason for the determination of non-compliance and the date, time, and place for a hearing. Such notice is attached hereto as Exhibit C; and

WHEREAS, at the public hearing held on May 1, 2014, the Common Council determined that Petitioner had not made a reasonable effort to comply with the Statement of Benefits and therefore such tax deductions should be terminated.

THEREFORE, BE IT RESOLVED by the Common Council for the City of Terre Haute, Indiana, that tax deductions authorized for Petitioner provided in Resolution No. 45, 2003, are hereby terminated.

BE IT FURTHER RESOLVED, that the City Clerk is hereby directed to provide a copy of this Resolution No. 11, 2014, to the Petitioner, Vigo County Auditor, and the appropriate township assessor.

BE IT FURTHER RESOLVED, that the Common Council requests that the County Auditor follow the provisions set forth at I.C. §6-1.1-12.1-5.9(d).

Introduced by: John Mullican, Councilman

Passed in open Council this day of MW, 2014.
Amy Auler, President
ATTEST: Mules Offaul Charles P. Hanley, City Clerk
Presented by me to the Mayor this, 2014.
Charles P. Hanley, City Clerk
Approved by me, the Mayor, this
Duke A. Bennett, Mayor
ATTEST: Malla Control Charles P. Hanley, City Clerk

!

Exhibit A

FILED

RESOLUTION NO. 45, 2003

CITY OLDERK

A Resolution of the Common Council of the City of Terre Haute, Indiana, Designating an Area Within the City of Terre Haute, Indiana, commonly identified as 4000 Steelton Road, Terre Haute, Indiana 47805, as an Economic Revitalization Area for the Purposes of Real Property Tax Abatement.

WHEREAS, a petition for ten year real property tax abatement has been filed with the Common Council of the City of Terre Haute requesting that the real property described therein on Exhibit A be designated an Economic Revitalization Area for purposes of real property tax abatement; and

WHEREAS, the petitioner has submitted a statement of benefits and provided all information and documentation necessary for the Common Council to make an informed decision, said information including a description of the real property which is commonly known as 4000 Steelton Road, Torre Haute, Indiana 47805, a legal description of which is attached hereto, and marked as Exhibit "A".

WHEREAS, the Common Council of the City of Terre Haute is authorized under the provisions of <u>I.C.</u> 6-1.1-12.1-1 <u>et seq.</u> to designate areas of the City as Boonomic Revitalization Areas for the purpose of tax abatement; and

WHEREAS, the Common Council of the City of Terre Haute has considered the petition and statement of benefits and has conducted a complete and proper investigation of the subject property and neighborhood to determine that the area qualifies as an Economic Revitalization Area under Indiana statutes; and

WHEREAS, the Common Council has found the subject property to be an area which is within the corporate limits of the City of Terre Haute which has become undesirable for, or impossible of, normal development and occupancy because of a lack of development, cessation of growth, deterioration of improvements or character of occupancy, age, obsolescence, substandard buildings, or other factors which have impaired values or prevent a normal development of property or use of property; and

WHEREAS, the petitioner estimates the investment to be made on the subject site will continue to provide jobs in the commercial/professional office area.

WHEREAS, the Common Council of the City of Terre Haute has found the request for the Real Property Tax Abatement to satisfy the requirements of Special Ordinance 11, 1997, as amended by Special Ordinance 43, 2000.

NOW, THEREFORE, IT IS FOUND, DETERMINED AND RESOLVED by the Common Council of the City of Terre Haute that:

- 1. The petitioner's estimate of the number of individuals who will be employed and retained can reasonably be expected to continue from the proposed renovation.
- 2. The totality of the benefits of the proposed renovation is sufficient to justify a ten year real property tax deduction from assessed valuation to result therefrom under Indiana statutes, and each such deduction should be, and is hereby, allowed.
- 3. The real property is located within an Beonomic Development Target Area as required pursuant to <u>Indiana Code</u> 6-1.1-12.1-3 and 6-1.1-12.1-7.
- 4. That the petition for designating the subject property as an Economic Revitalization Area for the purposes of ten year real property tax abatement and the Statement of Benefits are hereby approved, and the property is hereby designated as an Economic Revitalization Area pursuant to I.C. 6-1.1-12.1-1 et seq.

Presented by:
Councilman, Norman Loudermilk
Passed in open Council this / day of / All of 2003. Chuck Miles, President Common Council of Terre Haute, Indiana Charles P. Hanley, City Clerk
Presented by me to the Mayor this 15th day of 1007, 2003. Charles P. Hanley, City Clerk
Approved by me this 1 day of 1605 , 2003. Math W. Cullrian Fudith A. Anderson, Mayor, City of Terre Haute
Charles P. Hanley, City Clerk

PUBLIC HEARING held this // day of / STEMBER, 2003.

Chuck Miles, President
Common Council of Terre

Haute, Indiana

This instrument prepared by Peter J. Sacopulos, Attorney at Law, Sacopulos Johnson & Sacopulos, 676 Ohio Street, Terre Haute, Indiana 47807, (812) 238-2565

LEGAL DESCRIPTION

Lot Number 2 in Fort Harrison Business Park Phase I, a Replat of Lot Two, being a subdivision of a part of the Northeast quarter of Section One (1), Township Twelve (12) North, Range Nine (9) West as shown by the recorded plat thereof as Instrument No. 200318918 of the records of the Recorder's Office of Vigo County, Indiana

Commonly known as 4000 Steelton Road, Terre Haute, Indiana 47805

CITY OF TERRE HAUTE PETITION FOR REAL PROPERTY TAX ABATEMENT CONSIDERATION

DMS Real Estate, LLC, by counsel, Sacopulos Johnson & Sacopulos, owner of real property located within the City of Terre Haute, hereby petitions the Common Council of the City of Terre Haute for real property tax abatement consideration pursuant to <u>I.C.</u> 6-1.1-12.1-1, et seq, and in support of this petition states the following:

- 1. DMS Real Estate, LLC intends to have constructed a Sixty thousand (60,000) square foot pre-engineered building. Four thousand (4,000) square feet of that space will be office space. The remaining square footage will be used for business including corporate recycling, document storage, and distribution services. The recycling services includes transporting, sorting, baling, and reprocessing of various recycled material including paper, plastic, and metals. The waste services consist of transporting of waste to landfills and incinerators. Document storage consists of pickup, storage, delivery, and destruction of documents. Distribution services consist of packing, re-packing, and various manual handling of products for customers.
- 2. This project, once completed, not counting construction labor, will continue to provide 25 full-time jobs in the commercial/professional office, with annual payroll of approximately Six hundred eighty thousand dollars (\$680,000.00) as long as business conditions permit.
- 3. That the estimated dollar value of this project is about One million five hundred thousand dollars (\$1,500,000.00) in real property improvements.
- 4. That the facilities for which tax abatement consideration is petitioned is currently owned by DMS Real Estate, LLC, 4000 Steelton Road, Terre Haute, Indiana 47805.
- 5. The commonly known address of the location of the property is 4000 Steelton Road, Terre Haute, Indiana 47805, a legal description of which is attached hereto, and marked as Exhibit "A".
- 6. The best estimate of the amount of taxes being and to be abated for the proposed renovation is set forth in DMS Real Estate, LLC's "Estimated Tax Abatement", which is attached hereto, made a part hereof and marked as Exhibit "B".
- 7. In view of the foregoing circumstances, DMS Real Estate, LLC in good faith applies for a ten year tax abatement as above set forth.
- 8. Indiana State Form 27167(7-87), Statement of Benefits, as prescribed by the Indiana State Board of Tax Commissioners, which contains confidential information pursuant to the provisions of <u>I.C.</u> 6-1.1-35-9, will be submitted by DMS Real Estate, LLC to the members of the Common Council at an appropriate time and manner for consideration to preserve its confidentiality.

- 9. The current use of the Property is vacant and the current zoning is M-2 Planned Development District.
- 10. DMS Real Estate, LLC agrees to enter into an Agreement with the Board of Public Works for the City of Terre Haute, Indiana, in substantially the same form as is attached hereto and made a part hereof as Exhibit "C", and further, DMS Real Estate, LLC agrees to comply with Special Ordinance 11, 1997, as amended by Special Ordinance 43, 2000.
- 11. The person to contact as the petitioner's agent regarding additional information and the public hearing notifications is:

Mark Taylor 4000 Steelton Road Terre Haute, Indiana 47805

WHEREFORE, Petitioner, DMS Real Estate, LLC, requests that the Common Council of the City of Terre Haute, Indiana, adopt a declaratory resolution declaring and designating the area described herein to be an Economic Revitalization Area for purposes of real property tax abatement consideration, and after publication of notice and public hearing, determine qualifications for an economic revitalization area have been met and confirm such resolution.

PETITIONER:

DMS Real Estate, LLC

Mark Taylor

Title: Member

This instrument prepared by Peter J. Sacopulos, Attorney at Law, Sacopulos Johnson & Sacopulos, 676 Ohio Street, Terre Haute, Indiana 47807, (812) 238-2565

EINAL ACTION BY COMMON COUNCIL OF THE CITY OF TERRE HAUTE, INDIANA REGARDING RESOLUTION NO. 45, 2003

WHEREAS, the Common Council of the City of Terre Haute, unanimously adopted Resolution No. 45, 2003 on the __fundamentary day of __AulousT______, 2003, and pursuant to Indiana Law has published notice of the adoption and substance of said Resolution, including a description of the effected area and notice that a description of the effected area is available for inspection in the office of the County Assessor and further stating a date which the Common Council would receive and hear remonstrances and objections; and

WHEREAS, the Common Council has conducted the hearing as required by law and has received no remonstrances or objections to designation of the effected area as an Economic Revitalization Area or to approval of the Statement of Benefits; and

WHEREAS, said matter is before the Common Council for final action pursuant to Indiana law; and

WHEREAS, the Common Council has received and examined, prior to said hearing, (i) a statement of benefits on the form prescribed by the State Board of Tax Commissioners and proper application for designation; (ii) an Agreement with the Board of Public Works for the City of Terre Haute; and (iii) has heard all appropriate evidence concerning the proposed project and is found and does find:

- 1. That the area has become undesirable for, or impossible of, normal development and occupancy because of a lack of development, cessation of growth, deterioration of improvements or character of occupancy, age, obsolescence, substandard buildings, or other factors which have impaired values or prevent a normal development of property or use of property.
- 2. That the estimate of individuals who will be employed or whose employment will be retained as a result of the proposed renovation can reasonably be expected to continue.
- 3. That the benefits described can reasonably be expected to continue from the proposed renovation.
 - 4. That the totality of benefits is sufficient to justify the deduction.
- 5. That the real property is located within an Economic Development Target Area as required by <u>Indiana Code</u> 6-1.1-12.1-3 and 6-1.1-12.1-7 for the type of facility proposed by Petitioner.
 - 6. All qualifications for establishing an Economic Revitalization Area have been met.
- 7. That the requirements of Special Ordinance 11, 1997, as amended by Special Ordinance 43, 2000 have been met.

NOW, THEREFORE, for final action on Resolution No. 45, 2003, the Common Council of the City of Terre Haute, Indiana, RESOLVES, and FINDS, and DETERMINES:

- 1. That all the requirements for designation of the real property described in Resolution No. 45, 2003, as an Economic Revitalization Area have been mot, the foregoing findings are true and that all information required to be submitted has been submitted in proper form.
- 2. That Resolution No. 45, 2003, is in all respects confirmed and approved (as modified to incorporate therein this final action) and the benefits of the proposed redevelopment are sufficient to justify ten year real property tax abatement under Indiana statutes for the proposed construction and development described in the Statement of Benefits of DMS Real Estate, LLC and the deduction for the proposed project and the statement of benefits submitted by DMS Real Estate, LLC is approved and that the real estate described in Resolution No. 45, 2003, is declared an Economic Revitalization Area for the purposes of ten year real property tax abatement, and the said real estate is hereby designated an Economic Revitalization Area pursuant to I.C. 6-1.1-12.1-1 et seq.
- 3. That said Resolution supplements any other designation of the real estate as an Economic Revitalization Area.
- 4. That this final action, findings and confirmation of Resolution No. 45, 2003, shall be incorporated in and be a part of Resolution No. 45, 2003.

Presented by:

Councilman, Norman Loudermilk

Passed in open Council this 11th day of Statemack, 2003

Chuck Miles, President Common Council of Terre

Haute, Indiana

Charles P. Hanley, City Clerk

Presented by me to the Mayor this 11 Pt day of SCATTIBER 2003.

Charles P. Hanley City Clork

Approved by me this Moral day of Centensel, 2003.

idith A. Anderson, Mayor, City

of Terre Haute

ATTEST

Charles P. Hanley, City Clerk

This instrument prepared by Peter J. Sacopulos, Attorney at Law, Sacopulos Johnson & Sacopulos, 676 Ohio Street, Terre Haute, Indiana 47807, (812) 238-2565.

DMS REAL ESTATE, LLC

ESTIMATED REAL PROPERTY TAX ABATEMENT

Tax Year	Cost	Assessed Value	Per \$100	Tax Abatement %	Abated	Pald
1	\$1,500,000.00	\$200,000.00	14.3218	100	28,643.60	-0-
2	\$1,500,000.00	\$200,000.00	14.3218	95	27,211.42	1,432.18
3	\$1,500,000.00	\$200,000.00	14.3218	90	25,779.24	2,864.36
4	\$1,500,000.00	\$200,000.00	14.3218	85	24,347.06	4,296,54
5	\$1,500,000.00	\$200,000.00	14.3218	80	22,914.88	5,728.72
6	\$1,500,000.00	\$200,000.00	14.3218	70	20,050.52	8,593.08
7	\$1,500,000.00	\$200,000.00	14.3218	55	15,753.98	12,889.62
8	\$1,500,000.00	\$200,000.00	14.3218	40	11,457.44	17,186.16
9	\$1,500,000.00	\$200,000.00	14.3218	30	8,593.08	20,050.52
10	\$1,500,000.00	\$200,000.00	14.3218	25	<u>7,160,90</u>	21,482,70
				Total	\$191,912.12	\$94,523.88

Exhibit "C" AGREEMENT

This Agreement (the "Agreement") dated as of the day of	, 2003,
serves as a confirmation of DMS Real Estate, LLC's (the "Applicant") comm	itment, pending a
September, 2003 public hearing, to comply with the project description	n, and job retentior
(and associated wage rates and salaries) figures contained in its designation a	pplication.
Statement of Benefits, the Preliminary Economic Revitalization Area Resolut	tion No. 45, 2003
and attachments adopted by the Common Council of the City of Terre Haute,	Indian (the
"Council") on Thursday, September, 2003 and this Agreement (the "C	

Subject to the adoption of a Final Economic Revitalization Area Resolution by the Council, the City of Terre Haute, Indiana (the "City") commits to providing a ten (10) year real property tax abatement for the Applicant's capital expenditure of not less than One million five hundred thousand dollars (\$1,500,000.00) associated with the construction of the Commitments. The capital expenditure for the Project and the retention of such positions shall occur within two (2) years of the estimated completion date of April, 2004, contained in the approved Statement of Benefits Form SB-1 (the "Commitment Date").

During the term of the abatement, the City may annually request information from the Applicant concerning the status of the Project, the approved capital expenditure for the Project, the number of full-time permanent positions retained by the Project, and the average wage rates and salaries (excluding benefits & overtime) associated with the position, and the Applicant shall provide the City with adequate written evidence thereof within 15 days of such request (the "Annual Survey"). The applicant shall provide a copy of the annual CFI to the Board of Public Works and Safety at the same time the CF1 is filed with the County. The City shall utilize this information to verify that the Applicant has complied with the commitments contained in "the Commitments" at all times after the Commitment Date and during the duration of the abatement. The Applicant further agrees to provide the City with such additional information requested by the City related to the information provided in the Annual Survey and the CF-1 form within a reasonable time following any such additional request.

The City, by and through the Council, reserves the right to terminate the Economic Revitalization Area designation and associated property tax abatement deductions if it determines that the Applicant has not made reasonable efforts to substantially comply with all the commitments, and the Applicant's failure to substantially comply with the Commitments was not due to factors beyond its control. As used in the Agreement, "substantial compliance" shall mean the Applicant's compliance with the following: Making capital expenditures of not less than One million five hundred thousand dollars (\$1,500,000.00) for the Project.

As used in this Agreement, factors beyond the control of the Applicant shall only include factors not reasonably foreseeable at the time of the designation application and submission of Statement of Benefits which are not caused by any act or omission of the Applicant and which materially and adversely affect the ability of the Applicant to substantially comply with this Agreement.

If the City terminates the Economic Revitalization Area designation and associated tax abatement deductions, it may require the Applicant to repay the City all or a portion of the tax abatement savings received through the date of such termination. The amount of tax abatement required to be repaid for each year of noncompliance shall not exceed an amount equal to the percentage by which the Applicant has failed to attain substantial compliance in position retention and/or creation and average hourly wage rate and salary categories multiplied by the dollar amount of taxes actually abated. If the Applicant fails to substantially comply with more than one of the aforementioned categories, repayment shall be based on the highest level of noncompliance.

If at any time during the term of this Agreement, whether before or after the Commitment Date, the Applicant shall: (i) cease operations at the facility for which the tax abatement was granted: or (ii) announce the cessation of operations at such facility, then the City may immediately terminate the Economic Revitalization Area designation and associated future tax abatement deductions.

In the event the City requires repayment of the tax abatement savings as provided hereunder, it shall provide Applicant with a written statement calculating the amount due (the "Statement"), and Applicant shall make such repayment to the City within 30 days of the date of the Statement. If the Applicant does not make timely repayment, the City shall be entitled to all reasonable costs and attorneys fees incurred in the enforcement and collection of the tax abatement savings required to be repaid hereunder.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date and year first above written.

"Applicant"	Board of Public Works & Safety
DMS Real Estate, LLC	
By: Mark Taylor Mark Taylor	
Title: Member	
Approved as to Legal Adequacy and Form (2003.	on this day of
Ву:	
Title:	

Exhibit B

OFFICE OF THE CLERK City Hall, Room 102 17 Harding Avenue Terre Haule, Indiana 47807 812-232-3375

Charles P. Hanley, City Clerk

January 21, 2014

DMS Real Estate Mark Taylor 4000 Steelton Road Terre Haute, IN 47805

Re: City of Terre Haute, Indiana

Real Property Tax Abatement Recipient

RS 45, 2003

Dear Mark Taylor:

On June 17, 2009, the Terre Haute City Council Finance Committee conducted a meeting to discuss real and personal property tax abatement compliance. The Finance Committee determined it would not conduct hearings with any tax abatement recipients that year. However, beginning in 2010 and each subsequent year thereafter, all tax abatement paperwork will be reviewed annually for compliance by the Finance Committee.

Those recipients who fail to meet the compliance filing requirements or who filed information that appears to be out of compliance with the obligations set forth in the tax abatement petition and resolution will be asked to appear before the Finance Committee to provide more information.

The Finance Committee provides the following recommendations to assist in the proper submission and review of real and/or personal property tax abatement compliance forms:

- Complete the CF-1/PP or CF-1/RP in its entirety. Incomplete forms will be returned for completion.
- Handwritten forms must be legible.
- The Terre Haute City Council has not approved consolidation of multiple projects on one (1) compliance form. Please use a separate compliance form for each tax abatement granted.

- Using the correct compliance form, reference the correct City Council resolution number and year for each tax abatement granted.
- Double-check all calculations.
- Attach a copy of the original SB-1 Form (Statement of Benefits).
- Be prepared to explain discrepancies between pledged numbers of employees and salaries and actual numbers of employees and salaries.
- File your completed form annually by May 15 with both the Vigo County Auditor and Terre Haute City Clerk's office.

For your assistance, I have enclosed copies of Indiana Department of Local Government Finance Form CF-1/PP (Compliance with Statement of Benefits Personal Property) and Form CF-1/RP (Compliance with Statement of Benefits Real Property). Please use only the form that applies to the type of tax abatement your company was granted.

This letter is a reminder to your company of the requirements for yearly compliance. If your company has not completed the project for which the abatement was granted, please remit a letter stating this. Thank you in advance for your cooperation in this matter.

Sincerely, Michelle Columnal

Michelle Edwards Deputy City Clerk

Enclosures

cc: City Council Members

April 17, 2014

DMS Real Estate
Mark Taylor
4000 Steelton Avenue
Terre Haute, IN 47805

RE: RS 45, 2003 Real Tax Abatement

To Whom It May Concern:

This letter is in reference to the status of your company's tax abatement compliance with the Terre Haute City Common Council. At the April 2014 Regular Terre Haute Common Council Meeting, held on April 15, 2014, your company's submitted Compliance of Benefits Form (CF-1) was reviewed. During this meeting it was determined your company was not in substantial compliance. This determination was based on the data as listed on the submitted Compliance of Benefits Form (CF-1) with the Common Council.

A hearing has been scheduled for May 1, 2014 at 5:45pm (EST) in the City Hall Courtroom. The Courtroom is located at 17 Harding Avenue, City Hall, Terre Haute, Indiana 47807. A representative of your company must appear to answer questions concerning the data provided on the CF-1 form.

If a representative fails to attend the hearing scheduled for May 1, 2014, the Council may consider such as the property owner's failure to make reasonable efforts to comply with the statement of benefits and may vote to terminate the abatement thereby eliminating the deduction, pursuant to I.C. 6-1.1-12.1-5.9(c). Please make sure a representative is available for questions at the hearing.

If you have any questions, please feel free to contact me at 812-244-2131 or Michelle.Edwards@Terrehaute.IN.Gov

Sincerely,
Wichelly Edwards

Michelle Edwards
Chief Deputy City Clerk

	•.						
SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY					
 Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. Print your name and eddress on the reverse so that we can return the card to you. Attach this card to the back of the maliplector on the front if space permits. 	9	A. Signature X. Laudio D. Agent B. Received by (Printed Name) C. Deterpt Delive D. Is delivery address different from Item 1? Yes					
4.5,		If YES, enter delivery address below: No					
DMS Real Estate	1	l i					
4000 Steelton Ave							
Terre Haute, IN 478	505 L	3. Service Type Certified Mail Registered Receipt for Merchandise C.O.D.					
•		4. Restricted Delivery? (Extra Fee) Yes					
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PS Form 3800, August 2006
See Reverse for Instruction 7012